IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 10983 of 2005

Between:

Master Prithvindra (Minor) S/o. M. Ravindra
S/o. M. Raghavendra Rao aged 42 yrs, Occ: Business,
209,. West Marredpally, Secunderabad.

..... PETITIONER

AND

1 The Commissioner & Registrar of Co-operative Societies, Government of Andhra Pradesh,
2 The Jubilee Cooperative House Building Society Ltd., Rep. by its Special Officer/Secretary,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or Direction, more particularly one in the nature of WRIT OF MANDAMUS directing the 1st Respondent herein to proceed with the enquiry in ARC 4/2004, pending on its file and dispose the same on merits within a reasonable period, and to pass necessary orders.

Counsel for the Petitioner: MR.ERANKI PHANI KUMAR

Counsel for the Respondent : GP FOR COOPERATION

The Court made the following :

:: ORAL ORDER::

Aggrieved that the 1st respondent is not proceeding with the enquiry in ARC No. 4 of 2004, the writ petition is filed. Admittedly the 1st respondent is a *quasi-judicial* authority exercising arbitral power u/Sec. 61 of the AP Cooperative Societies Act, 1964 (for short 'the Act').

The petitioner claims that he was adopted by one M.Krishna Rao (who is no more) on 5.8.1992 under a registered adoption deed. The said Krishna Rao died in 1998. The 2nd respondent cooperative society allotted a plot in the name of Smt. Indira Devi w/o M.Krishna Rao. The said Smt. Indira Devi is said to have nominated her husband as nominee in the files of the 2nd respondent-society. Smt. Indira Devi is said to have died in 1996, whereafter it is claimed, Mr. Krishna Rao inherited the property. It is further stated by the petitioner that Krishna Rao nominated the petitioner for membership and thereafter expired, as already stated, in 1998. On Krishna Rao's death, the petitioner submitted an application dated 9.11.2001 to the 2nd respondent-society seeking transfer of the plot in his name. As the transfer has not been affected by the 2nd respondent-society despite reminders and legal notices issued, the petitioner filed ARC No. 4 of 2004. Earlier on the petitioner's application

for transfer of the plot, the 2nd respondent-society appears to have caused publication of the intent to effect transfer and called for objections. It appears that one Mr. Jaya Rao filed objections before the 2nd respondent stating that he had filed OS No. 483 of 1997 on the file of the III Senior Civil Judge, Secunderabad. The petitioner claims that he is not aware of the said suit. Be that as it may. The 1st respondent is alleged to be declining adjudication of the dispute in ARC No. 4 of 2004 on the ground that OS No.483/97 filed by Jaya Rao is pending.

The 1st respondent is the authority which has jurisdiction to adjudicate upon the disputes presented to it u/Sec. 61 of the Act, i.e., disputes arising between a member and the Society. In view of the complaint of the petitioner which is numbered as ARC No. 4 of 2004, the 1st respondent is required to pass an order on the merits of the petitioner's claims. If there is an order of a Civil Court or any other duly constituted judicial or other authority which has an effect on the merits of the petitioner's claims, one way or the other, the said order or instrument would have to be considered by the 1st respondent in passing an appropriate order on the petitioner's claims. The 1st respondent cannot abdicate his jurisdiction and await the interminable civil proceedings unless there is an order of the Civil Court or any other duly constituted authority interdicting the jurisdiction of the 1st respondent to adjudicate upon the dispute.

On the aforesaid analysis the 1st respondent is directed to hear and determine ARC No. 4 of 2004, on merits and in accordance with law, expeditiously and in any event within a period of six weeks from the date of receipt of a copy of this order. The writ petition is accordingly disposed of. No order as to costs.

Dated: 29.06.2005 ----------

Pvsn Justice G. Raghuram

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner & Registrar of Co-operative Societies, Government of Andhra Pradesh,
2 The Jubilee Cooperative House Building Society Ltd., Rep. by its Special Officer/Secretary,

3 Two CCs to the Government Pleader for Cooperation, High Court buildings, Hyderabad, (OUT)

4 2 CD copies